

SUMMARY: The Applicant was discharged on 26 September 2013 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General of Discharge for Misconduct (Drug Abuse). The Applicant appealed for an upgrade of their discharge characterization.

The Applicant requested the Board be completed based on a record only review. The Board was conducted on 31 May 2024. The Applicant was represented by counsel.

The attached examiner's brief (provided to Applicant only), extracted from available service records, contains pertinent data regarding the circumstances and character of the Applicant's military service.

DISCUSSION: The Discharge Review Board (DRB), under its responsibility to examine the propriety and equity of an Applicant's discharge, is authorized to change the characterization of service and the narrative reason for discharge if such changes are warranted. If applicable, the Board can also change the Applicant's reentry code. In reviewing discharges, the Board presumes regularity in the conduct of governmental affairs unless there is substantial credible evidence to rebut the presumption, to include evidence submitted by the Applicant. The Board completed a thorough review of the circumstances that led to the discharge and the discharge process to determine if the discharge met the pertinent standards of equity and propriety.

The Applicant's record of service included an Article 15, multiple Letters of Reprimand (LOR), and a Letter of Counseling (LOC). The Applicants misconduct included:

LOR for failure to obey a direct order.

LOC for violating dress and appearance standards.

LOR for failure to obey a direct order.

Article 15 for wrongful use of Marijuana.

The documentary evidence the Board considered as part of the review includes, but is not limited to the DD Form 293, *Application for the Review of Discharge from the Armed Forces of the United States*, and any additional documentation submitted by Applicant and/or counsel; the Applicant's personnel file from the Automated Records Management System (ARMS); and the DRB Brief detailing the Applicant's service information and a summary of the case.

The Applicant requested an upgrade to their Character of Service citing a recent diagnosis of Post Traumatic Stress Disorder (PTSD). They explained that during their military service, they were unaware of the severity of their depression and often felt neglected or isolated when reaching out to their leadership team. Since their discharge, they have been actively assisting other veterans and attending therapy, finding a sense of purpose in their life. They now aim to rectify the mistakes they made in their youth. The Applicant's counsel presented several factors for consideration: A few factors the Applicant cited was they suffered from service-connected mental health conditions that may excuse their misconduct and warrant a discharge upgrade. They emphasized the discharge was based on a single non-violent incident and highlighted the Applicant's otherwise exemplary record. They stated that with liberal consideration, an upgrade to honorable would be appropriate.

The DRB determined the discharge was proper and equitable and did not find evidence for a nexus between a mental health condition and the misconduct that led to the Applicant's discharge. The Applicant cited their mental health condition diagnosed post service as a factor to excuse their misconduct. However, the Board found that Applicant's discharge response contended the marijuana use was accidental so no nexus to a mental health condition could be attributed. Additionally, the Applicant was found to have provided a false statement when interviewed by the police for the marijuana use, which the Board viewed the Applicant's

candor in the situation unfavorably.

LIBERAL CONSIDERATION: Due to evidence of a mental health diagnosis and/or experiences of sexual assault or sexual harassment and/or records documenting that one or more symptoms of mental health conditions and/or experiences of sexual assault or sexual harassment existed/occurred during military service found in the Applicant's record, the Board considered the case based on the liberal consideration (LC) standards required by guidance from the Office of the Under Secretary of Defense for Personnel and Readiness and 10 USC §1553. The Board included a member who is a physician, clinical psychologist, psychiatrist or social worker with training on mental health issues connected with post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI) or other trauma. Specifically, the Board reviewed the four questions the Under Secretary of Defense provided that Boards should consider when weighing evidence in requests for modification of discharges due in whole or in part to mental health conditions, including PTSD; TBI; sexual assault, and sexual harassment. The Board considered the following:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?

The Applicant checked the box for "PTSD" on the application. The Applicant contended "while serving in the Air Force I didn't realize the seriousness of the depression I suffered. When I reached out to leadership I was left feeling abandoned and isolated without resources. I have always wanted to be the best I could in every aspect of my life. Therapy and helping other veterans has given me a purpose. I want to correct all my wrongs and not allow a mistake I made in the beginning of adulthood. With my PTSD diagnosis, I feel my discharge is improper."

2. Did that condition exist/experience occur during military service?

There is no evidence the Applicant sought or received any mental health treatment during their time in service. There is no evidence or records the Applicant received the diagnosis of PTSD during their time in service or post-service. There is no evidence the Applicant exhibited or endorsed any clinically significant features of PTSD, or any other mental health condition, during their time in service.

3. Does that condition or experience actually excuse or mitigate the discharge?

A review of the Applicant's DD214 revealed the Applicant was discharged with a general character of service due to misconduct (drug abuse) with three years, six months, eighteen days time in service. The Applicant, through counsel, detailed the Applicant's above average performance and extensive volunteer work and additional duty accomplishments during their time in service; these facts, corroborated by the Applicant's enlisted performance reports (EPRs) revealed there is no evidence the Applicant's performance or ability to perform her military duties was impaired by a mental health condition. The Applicant, through counsel, detailed long work hours, being stationed overseas in a damp climate, and guarding dangerous items as evidence of a mental health condition; however, working long hours, being stationed overseas, and climate are not mitigating mental health conditions that excuse or mitigate the Applicant's decision to smoke marijuana while intoxicated at a party stateside months later.

In the Applicant's case, there is no evidence of a nexus between a mitigating mental health condition and the Applicant's choice to willfully smoke marijuana at a party or to make false statements about drug use.

A review of the Applicant's post-service records revealed the Applicant's mental health condition as likely as not developed post service. There is no evidence or records the Applicant endorsed or exhibited any mental health symptoms until 2019, at which time the Applicant reported they were upset about receiving a general discharge, relationship stress with their mother. There is no evidence the Applicant received the diagnosis in service or post service of PTSD. There is no evidence the Applicant exhibited or endorsed any clinically significant indicators of PTSD, or any other mental health condition, during their time in service.

4. Does that condition or experience outweigh the discharge?

Because the Applicant's condition or experience is not mitigated or excused, the Applicant's discharge is also not outweighed.

Additionally, the Board considered the factors laid out in the attachment to the Under Secretary of Defense memorandum, *Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations*, dated 25 June 2018, known as the "Wilkie Memo." The Board considered the factors listed in paragraphs (6)(a)-(6)(l) and (7)(a)-(7)(r) of this memorandum and found no evidence of inequity or impropriety.

FINDING: The DRB voted unanimously to *deny* the Applicant's request to upgrade her discharge characterization, to change the discharge narrative reason, and to change the reentry code.

Should the Applicant wish to appeal this decision, the Applicant must request a personal appearance before this Board before applying for relief to the Air Force Board for Correction of Military Records (AFBCMR). In accordance with DAFI 36-2603, *Air Force Board for Correction of Military Records*, all Applicants before the AFBCMR must first exhaust available administrative avenues of relief before applying to the AFBCMR, otherwise their AFBCMR case will be administratively closed until such time that the Applicant avails themselves of the available avenue of relief. Therefore, should the Applicant wish to appeal this decision, they must first exercise their right to make a personal appearance before the AFDRB.

CONCLUSION: After a thorough review of the available evidence, to include the Applicant's issues, summary of service, service/medical record entries, and discharge process, the Board found the discharge was proper and equitable. Therefore, the awarded characterization of service shall remain "General," the narrative reason for separation shall remain "Misconduct (Drug Abuse)," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 1 July 2024. If desired, the Applicant can request a list of the Board members and their votes by writing to:

Air Force Review Boards Agency

Attn: Discharge Review Board

3351 Celmers Lane

Joint Base Andrews, NAF Washington, MD 20762-6602

Instructions on how to appeal an AFDRB decision can be found at

<https://afrbportal.azurewebsites.us>

Attachment:

Examiner's Brief (Applicant Only)